

Message Text

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INFO AMEMBASSY BONN

AMEMBASSY COPENHAGEN

AMEMBASSY HELSINKI

AMEMBASSY LONDON

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S E C R E T STATE 253464

EXDIS

E.O. 11652: GDS

TAGS:AGS, PFOR, NO, UR, SV

SUBJECT:U.S. EVALUATION OF STEPS TO STRENGTHEN NORWEGIAN
SOVEREIGNTY

REFS: (A) OSLO 4261, (B) OSLO 4418, (C) STATE 197924,
SECRET

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(D) STATE 192477, (E) OSLO 4976

1. SUMMARY: THIS MESSAGE TRANSMITS THE NOTE CONTAINING
US RESERVATION OF RIGHTS ON THE ISSUE OF SVALBARD CONTINEN-

TAL SHELF. THE MESSAGE ALSO RESPONDS TO THE POINTS RAISED BY THE EMBASSY IN REFTELS. WE BELIEVE THAT US INTERESTS REQUIRE SUCH A RESERVATION AT THIS TIME, AND THAT IT SHOULD NOT CREATE SIGNIFICANT DIFFICULTIES FOR THE NORWEGIANS IN THEIR NEGOTIATIONS WITH THE SOVIETS. IT MIGHT EVEN BE TURNED TO NORWEGIAN ADVANTAGE, FOR, SHOULD THE SOVIETS PRESS FOR CONCESSIONS INCONSISTENT WITH THE US POSITION, THE NORWEGIANS COULD USE OUR RESERVATION TO FEND OFF THESE SOVIET PRESSURES. END SUMMARY

2. WE REGRET DELAY IN GETTING NOTE TO YOU BUT IN AS YOU WILL APPRECIATE, THE ISSUE REQUIRES CONSIDERATION OF MANY POINTS OF VIEW. NOTE WHICH WE PROPOSE THAT YOU DELIVER AT APPROPRIATE MOMENT IS IN LAST PARA THIS MESSAGE.

3. WE CONCUR IN YOUR POINT (PARA 2, REFTEL A) THAT NORWAY SHOULD ASSERT ITS SOVEREIGNTY BY ENFORCING ITS OWN ADMINISTRATIVE METHODS ON SVALBARD. WE HOPE NORWEGIANS WILL CONTINUE TO DO SO, BUT WANT THEM TO BE AWARE THAT THE US STANDS READY, AS A TREATY SIGNATORY, TO HELP THEM IN ANY APPROPRIATE WAY.

4. RE PARA 3, REFTEL A, US CANNOT AGREE AT THIS TIME TO NORWAY'S INTERPRETATION OF TREATY SIGNATORIES RIGHTS TO SHELF AROUND SVALBARD. THE US SUBSCRIBES TO LEGAL PRINCIPLE THAT ISLANDS DO HAVE CONTINENTAL SHELVES OF THEIR OWN, SO LEGAL QUESTION IS NOT WHETHER SVALBARD HAS A SHELF, BUT WHETHER SVALBARD'S SHELF IS SUBJECT TO THE RIGHTS GRANTED THE PARTIES TO THE TREATY. US HAS NOT DECIDED THAT IT DOES NOT ENJOY RIGHTS TO EXPLORE AND EXPLOIT ON THE SHELF UNDER THE TREATY. DESPITE POSSIBLE COMPLICATIONS FORESEEN BY EMBASSY, US CANNOT AGREE TO NORWEGIAN POSITION WITHOUT FULL APPRECIATION OF LONG-TERM STRATEGIC, ECONOMIC AND ENERGY CONSEQUENCES AND WITHOUT REGARD TO POSITION OF OTHER SIGNATORIES. FOR THIS REASON, US NEEDS TO PLACE NORWEGIANS ON NOTICE THAT OUR RECOGNITION OF THEIR RIGHT TO UNDERTAKE BOUNDARY NEGOTIATIONS IS SECRET

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WITHOUT PREJUDICE TO SUCH RIGHTS AS WE MAY DETERMINE ARE OURS UNDER THE TREATY. FAILURE TO ENTER SUCH A RESERVATION MIGHT LEAVE NORWEGIANS FREE IN THE FUTURE TO ASSERT THAT US HAD ACQUIESCED IN NORWEGIAN LEGAL POSITION REGARDING LIMITED RIGHTS OF TREATY SIGNATORIES.

5. IT IS TRUE THAT UNIVERSAL ACCEPTANCE OF NORWAY'S INTERPRETATION OF TREATY MIGHT SIMPLIFY OVERALL SITUATION. NEVERTHELESS, US IS ONLY ONE OF 41 SIGNATORIES, AND US ACCEPTANCE OF NORWEGIAN POSITION WOULD NOT, BY ITSELF, DISPOSE OF ISSUE. IN ADDITION, PRESENTLY AVAILABLE INFORMATION DOES NOT PERMIT A CONSIDERED JUDGMENT THAT IT IS IN US OVERALL INTEREST TO FOREGO POSSIBLE ACCESS TO BARENTS

SEA OIL OR TO POSSIBLE FUTURE LEVERAGE WITH THE SOVIETS
OR THE NORWEGIANS.

6. REGARDING FURTHER SUGGESTION PARA 3, WE BELIEVE IT
MOST APPROPRIATE FOR US TO CONVEY ITS INTEREST IN TENSION-
FREE SVALBARD AND ITS SUPPORT FOR NORWEGIAN SOVEREIGNTY
IN AREA THROUGH YOUR CONVERSATIONS WITH GON OFFICIALS AND
PUBLICALLY AS APPROPRIATE OCCASIONS ARISE, AS ONE DID FOL-
LOWING FIRST DREW MIDDLETON ARTICLE (SEE STATE 202232).
HOWEVER, NOTE FOR DELIVERY TO NORWEGIANS DOES RECOGNIZE
THEIR SOVEREIGN RIGHT TO UNDERTAKE BOUNDARY NEGOTIATIONS
IN AREA, AND OUR INTENT IS TO ALLOW THE NORWEGIANS TO
CARRY THROUGH SUCH NEGOTIATIONS WITHOUT INTERFERENCE.

7. RE PARA 4, WE AGREE THAT US RESERVATION SHOULD NOT BE
GIVEN HIGH VISIBILITY, AND, WITH THE EXCEPTION OF THE UK,
WE DO NOT INTEND TO INFORM OTHER SIGNATORIES, PARTICULARLY

THE USSR OF OUR ACTION. WE WILL INFORM UK, WHICH HAS IT-
SELF RESERVED ITS POSITION, THAT WE HAVE NOT DECIDED THAT
WE DO NOT HAVE RIGHTS UNDER THE TREATY APPLICABLE TO THE
SHELF, AND HAVE RESERVED OUR POSITION ON THE ISSUE. IN
EVENT SOVIETS PRESS NORWEGIANS FOR CONCESSIONS INCONSISTENT
WITH US POSITION, NORWEGIANS WILL, OF COURSE, BE AT
LIBERTY TO ADVISE SOVIETS OF US POSITION, IF GON SO
DESIRES.

8. REGARDING REFTEL B WITH ITS MANY THOUGHTFUL COMMENTS
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ON THE POLICY OUTLINED IN REFS C AND D, WE WILL ADDRESS
THOSE POINTS IN ORDER. AS POINTED OUT IN THE PRECEDING
PARAGRAPH, WE AGREE WITH THE POINT MADE IN THE SUMMARY THAT
PUTTING OFF OUR DECISION ON THE SVALBARD CONTINENTAL SHELF
ALLOWS UNCERTAINTIES TO CONTINUE, BUT THE ISSUE CANNOT BE
SETTLED BY THE US ALONE, AND PROMPT AND DEFINITIVE RESOLU-
TION BY NUMEROUS SIGNATORIES NOT LIKELY. WE DOUBT THAT IT
WOULD BE IN NORWAY'S BEST INTERESTS TO HAVE THE SIGNATORIES
ACTIVELY DISCUSSING THE ISSUE JUST WHEN SHE IS EMBARKING ON
NEGOTIATIONS WITH THE SOVIETS. IF THE ISSUE BECAME CON-
TENTIOUS AND, WITH OIL IN THE OFFING, IT IS VERY LIKELY IT
WILL BECOME SO, NORWAY MIGHT FIND ITS NEGOTIATIONS WITH
THE SOVIETS MUCH MORE DIFFICULT BECAUSE OF THE CLOSE
ATTENTION FOCUSED ON THE REGION. THEREFORE, WE, AS YET,
DO NOT SEE ANY OVERRIDING REASON THAT WOULD REQUIRE THE US
TO COME TO AN IMMEDIATE DECISION ON THE SVALBARD CONTINEN-
TAL SHELF ISSUE.

9. A PORTION OF OUR RESPONSE TO PARA 2, REFTEL B, CAN BE
FOUND IN PARA 4 ABOVE. IN GENERAL, FROM A NARROW POLITICAL
PERSPECTIVE, A SOLUTION WHICH ALLOWS NORWAY ABSOLUTE
SOVEREIGN RIGHTS OVER THE RESOURCES OF THE ENTIRE SHELF

BETWEEN NORTH CAPE AND SVALBARD MIGHT SEEM TO BE IN THE US BEST INTERESTS. ENERGY AND STRATEGIC IMPLICATIONS ARE SO UNCERTAIN, HOWEVER, THAT WE CANNOT BE WHOLLY CONFIDENT OF THAT. HOW THE OTHER TREATY SIGNATORIES WILL COME DOWN ON THE ISSUE IS STILL UNKNOWN. IN OUR OPINION, NORWAY COULD NOT HAVE LEGITIMATELY CLAIMED IN THE NEGOTIATIONS TO HAVE HAD A UQUOTE UNCHALLENGED RIGHT TO CONTROL OIL DRILLING OPERATIONS IN THE DISPUTED AREA UNQUOTE (NOTE WE READ THIS TO MEAN QUOTE EXERCISE UNABRIDGED SOVEREIGNTY UNQUOTE) UNTIL THE ISSUE WAS SATISFACTORILY SETTLED AMONG ALL INTERESTED PARTIES.

10. WE AGREE WITH ANALYSIS CONTAINED PARA 3. AS WE INDICATED IN PARA 7 ABOVE, FROM THE NORWEGIAN POINT OF VIEW, AND PERHAPS EVEN ULTIMATELY FROM OUR OWN, THE NORWEGIAN SOLUTION MAY WELL BE THE BEST ONE. FOR MANY REASONS, NOT

JUST POLITICAL AND SECURITY, THE NORWEGIANS WILL PROBABLY PERSEVERE IN THEIR INCLINATIONS MENTIONED IN SUBSECTION
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(A). BY MAKING OUR RESERVATION, WE INDICATE ONLY THAT WE CONSIDER THE ISSUE OPEN AND DO NOT INTEND TO MOVE NOW TO SETTLE IT. FOR THE SAME MULTIPLE REASONS, NORWAY MIGHT WELL TRY IN THE FUTURE TO GIVE STATOIL A MONOPOLY IN THE AREA AND WELCOME ADJUDICATION OF ANY RESULTING DISPUTE IN THE WORLD COURT. US HAS STRONGLY SUPPORTED USE OF INTERNATIONAL ADJUDICATION IN INTERNATIONAL LEGAL DISPUTES OF THIS CHARACTER IN THE PAST. AS A PRACTICAL MATTER, EXPLORATION/EXPLOITATION IN THE AREA IS PROBABLY A LONG WAY IN THE FUTURE FOR THE VERY REASONS YOU MENTION IN SUBPARAGRAPH (B), AND BRINGING IT TO A HEAD NOW COULD ONLY, AS WE SEE IT, COMPLICATE NORWAY'S NEGOTIATIONS WITH THE SOVIETS. UNLESS ALL OF THE SIGNATORIES ACCEPT THE NORWEGIAN CONTENTION RE SVALBARD'S CONTINENTAL SHELF -- AN UNLIKELY ALTHOUGH NOT IMPOSSIBLE OUTCOME -- THERE WILL INEVITABLY BE DIFFERENCES BETWEEN NORWAY AND CERTAIN OF THE SIGNATORIES WHO COULD VIEW THE POTENTIAL SVALBARD SHELF OIL DEPOSITS AS A WAY OF ALLEVIATING OIL SHORTAGES.

11. RE PARA 4, THE USG INTERPRETS THE 1920 TREATY AS GRANTING NORWAY ABSOLUTE SOVEREIGNTY EXCEPT WHERE SUCH SOVEREIGNTY IS SUBJECT TO THE RIGHTS OF SIGNATORIES GRANTED BY THE TREATY. UNFORTUNATELY, THE TREATY USES TERMS WHICH ARE BROAD AND SOMEWHAT VAGUE IN DESCRIBING SUCH RIGHTS (E.G., QUOTE MARITIME, INDUSTRIAL, MINING AND COMMERCIAL OPERATIONS UNQUOTE). THE LACK OF COMPLETE PRECISION IN THE SIGNATORIES' RIGHTS WILL MAKE NORWEGIAN PURSUIT OF SOVEREIGNTY IN THE AREA THE SUBJECT OF CONFLICTING INTERPRETATIONS, BUT WE DO NOT SUBSCRIBE TO THE SOVIET POSITION THAT THE RIGHTS ENUMERATED ARE MERELY QUOTE ILLUSTRATIVE UNQUOTE. UNDER THE CIRCUMSTANCES, OUR

BEST COURSE APPEARS TO BE TO SUPPORT NORWAY IN THE APPLICATION OF ITS ADMINISTRATIVE REGULATIONS.

12. RE PARA 5, WE ARE ENTIRELY IN AGREEMENT THAT NORWAY MIGHT BE ABLE TO USE OUR RESERVATION TO ITS ADVANTAGE (SEE PARA 7 ABOVE). WE ALSO AGREE THAT, NO MATTER WHAT STEPS WE TAKE, THE SOVIETS WILL PRESS HARD TO GAIN AS MANY ADVANTAGES AS THEY CAN FROM THE UPCOMING NEGOTIATIONS.

13. RE PARA 6, WE NOTE WITH INTEREST THAT THE NORWEGIANS
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NOW SUSPECT THAT THE USSR MIGHT BE WILLING TO CHANGE ITS POSITION ON THE SVALBARD CONTINENTAL SHELF. WE QUESTION IF US SUPPORT FOR THE NORWEGIAN POSITION ALONE WOULD SUFFICE TO PRODUCE THIS CHANGE IN POSITION. WE ALSO WONDER IF A US RESERVATION (AS OPPOSED TO AN ADVERSE

OPINION) WOULD NECESSARILY LEAD THE NORWEGIANS TO MAKE CONCESSIONS THEY MIGHT NOT OTHERWISE HAVE MADE IN ORDER TO GAIN SOVIET SUPPORT FOR THEIR POSITION.

14. AS MENTIONED PARA 7 ABOVE, WITHOUT A FINAL SETTLEMENT OF THE CONTINENTAL SHELF ISSUE, NORWAY COULD NOT LEGITIMATELY GIVE THE ASSURANCES IMPLIED IN PARA 7, REFTEL B BASED SOLELY ON US AND BRITISH ACQUIESCENCE. OF COURSE, NORWAY CAN DO AS IT LIKES WITH THOSE AREAS UNQUESTIONABLY UNDER EXCLUSIVE NORWEGIAN JURISDICTION, BUT WE HOPE THE NORWEGIANS WILL THINK CAREFULLY BEFORE IMPOSING SUCH RESTRICTIONS ON THEMSELVES.

15. RE PARA 8, WE ARE NOT SURPRISED THAT THE TWO SIDES SEEM IN NO HURRY TO START SUBSTANTIVE NEGOTIATIONS SINCE THEY WILL BE DIFFICULT, AND A SETTLEMENT COULD IN FACT INTRODUCE NEW PROBLEMS. FOR EXAMPLE, BOTH SIDES MAY FEEL IT NECESSARY TO PREPARE FOR ACTIVE EXPLOITATION IN THE AREA OF THE DELIMITED BOUNDARY ONCE AGREEMENT IS REACHED IN ORDER TO FORESTALL THE OTHER FROM TAKING AN EXCESSIVE AMOUNT OF OIL FROM THE QUOTE COMMON POOLS UNQUOTE. WE REALIZE THAT THE UNSETTLED NATURE OF THE CONTINENTAL SHELF ISSUE IS A PROBLEM FOR NORWAY, BUT SUSPECT THAT EFFORTS TO SETTLE IT COULD CREATE EVEN MORE PROBLEMS.

16. WE AGREE WITH YOUR ANALYSIS IN PARA 9 THAT PERHAPS SOONER THAN LATER, UNDER FOREIGN OR DOMESTIC PRESSURE TO BEGIN EXPLORATION, WE WILL HAVE TO DEVELOP OUR POSITION ON THE ISSUE OF THE SVALBARD CONTINENTAL SHELF. THIS WE PROPOSE TO DO IN LINE WITH YOUR SUGGESTION IN PARA 10 A. IT SHOULD BE MADE CLEAR TO THE NORWEGIANS THAT ONE OF THE MOTIVATIONS FOR THE US RESERVATION SPRINGS FROM CONCERN FOR THE SECURITY SITUATION IN THE AREA. THE US DESIRES TO HAVE ITS HANDS FREE, IF WASHINGTON AND OSLO SHOULD COME TO

THE CONCLUSION THAT SUCH ACTION IS NECESSARY, TO EXERCISE
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ITS RIGHTS AND MAKE AN AMERICAN PRESENCE FELT IN THE AREA.
IT WOULD BE HOPED THAT THE US RESERVATION
AND THE POSSI-
BILITY THAT THE US MIGHT TAKE SOME ACTION, WOULD GIVE
MOSCOW PAUSE BEFORE EXERTING ANY PRESSURE OR TAKING ANY
ACTION THAT WOULD DECREASE NORWEGIAN INFLUENCE AND ENHANCE
ITS OWN ON OR AROUND THE ISLANDS. ALSO, IN INTERDEPART-
MENTAL MEETINGS HERE IN WASHINGTON THIS SUMMER, IT BECAME
APPARENT THAT THERE WAS CONSIDERABLE UNCERTAINTY ABOUT THE
VALUE OF THE POTENTIAL US RIGHT TO ACCESS TO A NEW AND
PERHAPS RICH SOURCE OF HYDROCARBONS AND OTHER OFF-SHORE
DEPOSITS. UNTIL THE IMPORT OF THAT QUESTION, AS WELL AS
THE OTHER IMPORTANT QUESTIONS SUCH AS SECURITY, BECOMES
SOMEWHAT CLEARER, WE ARE UNWILLING EITHER TO FOREGO ANY

POTENTIAL
RIGHTS WE MAY HAVE UNDER THE SVALBARD TREATY OR
TO MAKE A CLAIM PREMATURELY WHICH COULD, IT SEEMS TO US,
MAKE NORWAY'S NEGOTIATIONS THAT MUCH MORE DIFFICULT. WE
WOULD LIKE A CLEARER APPRECIATION OF WHAT WILL ACTUALLY BE
AT STAKE BEFORE WE MAKE OUR DECISION. SHOULD WE ULTI-
MATELY DECIDE THAT THE NORWEGIAN INTERPRETATION IS ACCEP-
TABLE TO US, WE MUST, OF COURSE, OBTAIN ASSURANCES THAT US
FIRMS WILL RECEIVE EQUAL TREATMENT IN BEING ALLOWED TO
OPERATE IN THE AREA. BENEFITS TO US FIRMS MIGHT WELL BE
ONE OF THE CONCESSIONS WE MIGHT EXACT BEFORE ACCEPTING
THE NORWEGIAN POSITION.

17. RE PARA 9 (C), WE AGREE THAT COMMERCIAL ACTIVITY ON
THE SVALBARD SHELF IS INEVITABLE, BUT AGAIN WE WONDER WHEN.
IF NORWAY BEGINS TO EXPLORE THE PROBLEMS AND POSSIBILI-
TIES WITH US AND/OR WITH OTHERS, WOULD THIS BE CREATING AN
ISSUE WHERE NONE NOW EXISTS? WITH WHAT COUNTRIES WOULD
NORWAY PUSH THESE EXPLORATIONS AND WOULD SUCH JOINT EFFORTS
IMPLY THAT THE SHELF IS UNDER THE INTERNATIONAL JURISDIC-
TION OF THE TREATY -- A STEP WHICH NORWAY OBVIOUSLY IS NOT
INTERESTED IN TAKING NOW?

18. RE PARA 9 (D), THE US WOULD VERY MUCH FAVOR ANY JOINT
EFFORTS TO EXPLORE AND EXPLOIT ALL OR PARTS OF THE TREATY
AREA, BUT AE DOUBT THAT THE SOVIETS WOULD SHARE THAT IN-
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TEREST IN LIGHT OF THEIR STRATEGIC CONCERNS. CERTAINLY
THEY HAVE SHOWN LITTLE INCLINATION OF THIS TYPE IN THE
PAST. THIS WOULD, HOWEVER, BE AN EXCELLENT SOLUTION NO
MATTER WHAT THE DETERMINATION ABOUT A SVALBARD CONTINENTAL

SHELF IS, FOR JOINT EFFORTS OF THE KIND SUGGESTED COULD BE THE WAY TO REASSURE ALL PARTIES CONCERNED THAT THE PURSUITS ON THE SHELF REMAIN PURELY COMMERCIAL OR SCIENTIFIC.

19. UNLESS YOU PERCEIVE ANY OBJECTIONS, PLEASE DELIVER THE NOTE IN THE NEXT PARAGRAPH TO THE GON AT THE APPROPRIATE LEVEL AND TIME. WE ALSO PROPOSE, UNLESS YOU SEE SOME PROBLEM, TO NOTIFY THE BRITISH EMBASSY IN WASHINGTON (SEE PARA 7) SINCE THAT IS WHERE CONTACT WAS FIRST MADE ON THIS ISSUE.

20. TEXT OF US NOTE TO NORWEGIAN GOVERNMENT: QUOTE THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS, AND REFERS TO THE NEGOTIATIONS WHICH THE EMBASSY UNDERSTANDS TO BE CONTEMPLATED BY THE GOVERNMENT OF NORWAY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS TO DELIMIT THEIR CONTINENTAL SHELF BOUNDARY IN THE AREA OF THE BARENTS SEA.

QUOTE AS THE MINISTRY IS AWARE, THE UNITED STATES IS A PARTY TO THE 1920 TREATY RELATING TO SPITZBERGEN. THAT TREATY CONFIRMS THE SOVEREIGNTY OF NORWAY OVER SVALBARD, SUBJECT TO THE RIGHTS OF OTHER PARTIES TO THE TREATY, INCLUDING CERTAIN RIGHTS OF EXPLORATION AND EXPLOITATION OF MINERAL RESOURCES. THE UNITED STATES HAS COMPLETE CONFIDENCE THAT NORWAY WILL ACT WITH FULL REGARD FOR THE RIGHTS OF ALL PARTIES TO THE TREATY IN ITS CONDUCT OF THE FORTHCOMING NEGOTIATIONS, AND RECOGNIZES THE RIGHT OF NORWAY, SUBJECT AS AFORESAID, TO CONDUCT SUCH NEGOTIATIONS.

QUOTE IN THIS CONNECTION, THE UNITED STATES WISHES TO ADVISE THE GOVERNMENT OF NORWAY THAT THE UNITED STATES FULLY RESERVES ALL RIGHTS WHICH IT MAY HAVE UNDER THE TREATY, INCLUDING ANY RIGHTS WITH RESPECT TO EXPLORATION AND EXPLOITATION OF MINERAL RESOURCES OF THE CONTINENTAL SHELF APPERTAINING TO SVALBARD, AND THAT THE UNITED STATES' RECOGNITION OF THE RIGHT OF NORWAY TO CONDUCT THE PRO-
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POSED NEGOTIATIONS IS WITHOUT PREJUDICE TO SUCH RIGHTS.
UNQUOTE END OF NOTE KISSINGER

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